

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

TAKIA WALTON; DANYLLE)	
MCHARDY; GEORGE DE LA PAZ JR.;)	
KEVIN JACOBS and FEIONA DUPREE,)	
Individually, and on behalf of all others)	
similarly situated,)	CIVIL ACTION FILE NO.
)	1:19-CV-4466-LMM
Plaintiffs,)	
)	
v.)	
)	
PUBLIX SUPERMARKETS, INC,)	
)	
Defendants.)	

NOTICE OF SUPPLEMENTAL INFORMATION

Defendant Publix Supermarkets, Inc., files this Notice of Supplemental Information to highlight new factual developments that support its Amended Motion to Strike, Deny Without Prejudice, Or Stay. Doc. 11. This Notice contains no new legal argumentation.

One week after filing their complaint, and just one day after amending it, Plaintiffs moved for conditional certification of a proposed collective in this Fair Labor Standards Act case. Doc. 9. Five days after that, Publix moved to strike or deny Plaintiffs' premature motion for conditional certification, or, in the alternative, stay Publix's deadline to respond until 14 days after this Court rules on Publix's

motion to strike or deny. Doc. 11. Two days later, Plaintiffs filed another motion, this time seeking to toll the limitations period for putative collective members. Doc. 14.

Plaintiffs' tolling motion reiterates and reinforces the reasons why Publix moved to strike or stay.

First, the tolling motion adds yet another new collective definition (at least the third different definition by Publix's count). As noted in Publix's motion to strike, these varying definitions create chaos by raising the spectre of a certified collective that includes people over whom this Court lacks personal jurisdiction. The new class definition contained in Plaintiffs' tolling motion means that Plaintiffs seek tolling for members of and FLSA collective that is defined neither in their pending, premature conditional certification motion nor in the operative complaint.

Second, the tolling motion, like Plaintiffs' conditional certification motion, pairs with Publix's waiver-extended pleadings deadline to create the odd possibility that this Court could rule on tolling and class certification before Publix has any obligation to respond to the Amended Complaint. The inefficiencies and oddities of that situation are outlined in full in Publix's Amended Motion to Strike and are compounded by the fact that Publix's opposition to conditional certification would

rely in part on the defenses it would assert in response to the operative complaint, should that complaint survive dismissal at the pleadings stage.

For the reasons given in its Amended Motion to Strike and because of the additional information described here, Publix asks this Court to strike or deny without prejudice Plaintiffs' premature motion for conditional certification and motion to toll the statute of limitations, or in the alternative to stay Publix's deadline to respond to either motion until 14 days after this Court rules on Publix's motion to strike.

Date: October 21, 2019

Respectfully submitted,

SEYFARTH SHAW LLP

By s/ Brett C. Bartlett

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CERTIFICATE OF SERVICE

I certify that on October 21, 2019, I electronically filed Defendant's Notice of Supplemental Information using the CM/ECF system, which will automatically send email notification of this filing to all counsel of record.

s/ Brett C. Bartlett _____
Counsel for Defendant